



# County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 713, Los Angeles, California 90012  
(213) 974-1101  
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA  
Chief Executive Officer

November 1, 2011

To: Mayor Michael D. Antonovich  
Supervisor Gloria Molina  
Supervisor Mark Ridley-Thomas  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe

From: William T Fujioka  
Chief Executive Officer

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

## REPORT ON USE OF E-VERIFY SYSTEM FOR COUNTY CONTRACTORS

This memorandum is to provide your Board with background on prior Board actions and requests, as well as reports from this Office, regarding the feasibility of requiring the use of E-Verify by County contractors, and advise your Board of recently-adopted State legislation which prohibits State and local government in the State from imposing such requirements.

### **Background**

On August 25, 2009, on motion of Supervisor Antonovich, your Board directed the Chief Executive Officer, Acting County Counsel, and Director of Internal Services to review the Federal government's E-Verify system, and to report back with recommendations on the feasibility of requiring participation by all future contractors that do business with the County.

We completed an initial review of the E-Verify system, and provided a status report to your Board on October 26, 2009. The status report also noted that, on October 11, 2009, Governor Arnold Schwarzenegger vetoed Assembly Bill 1288, which would have prohibited the County from requiring private employers to use an electronic employment verification system, except when required by federal law, or as a condition of receiving federal funds. In addition, the status report indicated that this Office would convene a workgroup of large County departments to assess the economic and operational impacts associated with implementation of E-Verify for all County contractors, and that County Counsel would continue to monitor pending or future litigation that could impact this issue.

*"To Enrich Lives Through Effective And Caring Service"*

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On November 24, 2009, on motion of Supervisor Molina, your Board directed the Chief Executive Office, Acting Director of Personnel, and County Counsel to prepare a comprehensive review with the County's own E-Verify system, including the County's process, as well as potential liability from contractors, employees, or other entities for requiring County contractors to implement E-Verify. On March 10, 2010, we provided your Board a report on the County's experience in using the E-Verify system. At the same time, we indicated that all pending court cases relating to E-Verify were still unresolved, and County Counsel would continue to monitor and report all pending or future litigation related to E-Verify.

**AB 1236 (Employment Acceleration Act of 2011)**

On October 9, 2011, Governor Jerry Brown signed into law AB 1236, the Employment Acceleration Act, adding a new Article 2.5 entitled "Electronic Employment Verification Systems" (commencing with Section 2811) to Chapter 2 of Division 3 of the California Labor Code. The new law takes effect January 1, 2012 and provides that the State of California, city, county or local governments cannot mandate participation in the E-Verify program by private business owners, and reaffirms that for most private business employers, participation in the E-Verify Program is optional. As stated in the preamble, the bill prohibits the state or any city or county from requiring employers to use the E-Verify system as a condition of receiving a government contract or as a condition for maintaining a business license, except when required by federal law or as a condition of receiving federal funds.

Specifically, Section 2812 provides as follows:

Except as required by federal law, or as a condition of receiving federal funds, neither the state, nor a city, county, city and county, or special district shall require an employer to use an electronic employment verification system, including under the following circumstances:

- (a) As a condition of receiving a government contract.
- (b) As a condition for applying for or maintaining a business license.
- (c) As a penalty for violating licensing or other similar laws.

Section 2813(a) further provides that for purposes of Article 2.5, the term "electronic employment verification system" includes the E-Verify program.

AB 1236's clear prohibition obviates the County from requiring its contractors to participate in the E-Verify Program, except when required by federal law or as a

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condition of receiving federal funds. At this time, participation in the E-Verify program is not a condition for receipt of federal funds in any contracts administered by the County.

Please let me know if you have any questions, or your staff may contact Martin Zimmerman at 213.974.1326 or [mzimmerman@ceo.lacounty.gov](mailto:mzimmerman@ceo.lacounty.gov).

WTF:EFS:MKZ  
FC:JH:ib

c: Executive Office, Board of Supervisors  
County Counsel  
Internal Services Department

E-Verify System for County Contractors\_Brd Memo